

REMARKS

The Office Action dated May 30, 2003, has been received and reviewed.

Claims 1-21 were previously pending and under consideration in the above-referenced application. Of these, claims 7-12 stand rejected.

New claim 22 has been added.

Reconsideration of the above-referenced application is respectfully requested.

Rejections Under 35 U.S.C. § 112, First Paragraph

Claims 7-10 stand rejected under the first paragraph of 35 U.S.C. § 112 for assertedly reciting subject matter which is not enabled in the specification. In particular, independent claims 7 and 10 have been rejected for reciting prevention and treatment of a disease state.

Claim 7 has been amended to remove reference to prevention or treatment of a disease state. This language has been replaced with language drawn to causing an immune system of an animal to elicit an immune response to an infecting pathogen. It is respectfully submitted that, as evidenced by the description provided in the "Background" section of the above-referenced application, as well as by the art that has been considered and made of record in the above-referenced application, transfer factor is known to cause the immune system of an animal to elicit an immune response against all types of pathogens.

It is further submitted that the result of causing an immune system of an animal to elicit an immune response against a pathogen, subject matter which is fully supported by the disclosure of the as-filed specification of the above-referenced application, may be the prevention of a disease state. Accordingly, although such subject matter has been removed from claim 7, it is not disclaimed, as the result of preventing a disease state by such administration remains a possibility.

Claims 8-10 are each allowable, among other reasons, for depending from claim 7, which is allowable.

In view of the foregoing, withdrawal of the 35 U.S.C. § 112, first paragraph, rejection of claims 7-10 is respectfully requested.

Rejections Under 35 U.S.C. § 112, Second Paragraph

Claims 7-12 stand rejected under the second paragraph of 35 U.S.C. § 112 for reciting subject matter which is purportedly indefinite.

In particular, the recitation of “preventing” in claim 7 and of “treating” in claim 11 were objected to for being the results of an act, not part of an act itself.

Claims 7 and 11 have been amended to recite that the “administering” of independent claim 1 “comprises administering a quantity of [a] composition” “to cause an immune system of [an] animal to elicit an immune response” (claim 7) or “to treat a disease state” (claim 11). It is respectfully submitted that these amendments provide further detail as to what occurs during the act of “administering,” rather than recite the result of that act. Accordingly, it is respectfully submitted that claims 7 and 11, as well as claims 8-10 and 12, which respectively depend therefrom, are now in condition for allowance under 35 U.S.C. § 112, second paragraph.

It is, therefore, respectfully requested that the 35 U.S.C. § 112, second paragraph, rejection of claims 7-12 be withdrawn.

Allowable Subject Matter

The indication that claims 1-21 recite subject matter which is free of prior art and presumably allowable is gratefully acknowledged.

New Claim

New claim 22, which depends from claim 1, recites that administering the composition of independent claim 1 to an animal strengthens the immune system of the animal.

It is respectfully submitted that the subject matter recited in new claim 22 is fully supported by the as-filed specification and, therefore, does not add new matter to the above-referenced application.

Entry and allowance of new claim 22 are respectfully requested.

Information Disclosure Statement

An Information Disclosure Statement is being filed herewith so that the Office may consider U.S. Patent Application Publication US 2002/0044942 A1, based on U.S. Application Serial No. 09/954,961 (hereinafter "the '961 Application"), and make the same of record in the above-referenced application. The '961 Application does not include a proper claim for priority to any early application, including U.S. Provisional Application Serial No. 60/233,400. M.P.E.P. § 201.11; 37 C.F.R. §§ 1.76 and 1.78(a). The '961 Application is, therefore, not believed to be prior art to any of the claims of the above-referenced application. In any event, it is respectfully requested that U.S. Patent Application Publication US 2002/0044942 A1 be considered and made of record in the above-referenced application and that an initialed copy of the Form PTO/SB/08A that accompanies the Information Disclosure Statement be returned to the undersigned attorney as evidence of such consideration.

CONCLUSION

It is respectfully submitted that each of claims 1-22 is allowable. An early notice of the allowability of each of these claims is respectfully solicited, as is an indication that the above-referenced application has been passed for issuance. If any issues preventing allowance of the above-referenced application remain which might be resolved by way of a telephone conference, the Office is kindly invited to contact the undersigned attorney.

Respectfully submitted,



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